

*REMARKS/ARGUMENTS**The Pending Claims*

Claims 7-12, 20-22, and 27-40 currently are pending. Claims 7-10, 20, 27, and 28 have been withdrawn in response to a restriction requirement. As such, claims 11, 12, 21, 22, and 29-40 currently are subject to examination.

Amendments to the Claims

Claims 7 and 11 have been amended to remove the phrase “or a solvate thereof.” Claim 11 also has been amended to remove “meningitis, cerebritis, or brain abscess.” As a result of the amendment of claim 11, new claims 29-40 have been added to recite a method for treating meningitis, cerebritis, or brain abscess. Claims 23-26 have been canceled.

Accordingly, no new matter has been added by way of these amendments.

The Office Action

Claims 11-12 and 21-26 have been rejected under 35 U.S.C § 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 23-26 have been rejected under 35 U.S.C § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Claims 11, 12, 21, and 22 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bourrie et al., *Proceedings of the National Academy of Science USA*, 96: 12855-12859 (1999) (“Bourrie et al.”), in view of Watanabe et al., *The Journal of Pharmacology and Experimental Therapeutics*, 268: 1597-1604 (1994) (“Watanabe et al.”). Reconsideration of these rejections in view of the amendments and remarks set forth herein is respectfully requested.

Discussion of Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 11-12 and 21-26 have been rejected as allegedly failing to comply with the written description requirement. In particular, the Examiner alleges that the specification provides insufficient written description to encompass the genus of all solvates of 3-methyl-1-phenyl-2-pyrazolin-5-one. Solely in an effort to advance prosecution of the instant

application, and not in acquiescence of the rejection, claims 7 and 11 have been amended to remove the phrase “or a solvate thereof.”

Claims 23-26 have been rejected under 35 U.S.C § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Applicants traverse this rejection for the reasons set forth below. In particular, the Examiner contends that the prevention of multiple sclerosis, meningitis, cerebritis, or brain abscess has not been demonstrated either in the specification of the instant application or in the prior art. Solely in an effort to advance prosecution of the instant application, and not in acquiescence of the rejection, claims 23-26 have been canceled.

In view of the claim amendments, the written description and enablement rejections are rendered moot. Accordingly, the rejections under section 112, first paragraph, should be withdrawn.

Discussion of Rejection Under 35 U.S.C. § 103(a)

Claims 11, 12, 21, and 22 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Bourrie et al. in view of Watanabe et al.

The Examiner contends that Bourrie et al. indicates that compounds that provide protection against blood-brain barrier dysfunction are good candidates for the treatment of multiple sclerosis. The Examiner alleges that Watanabe et al. teaches that 3-methyl-1-phenyl-2-pyrazolin-5-one mitigates dysfunction of the blood-brain barrier. Therefore, the Examiner argues that it would have been obvious for a person of ordinary skill in the art to combine the teachings of Bourrie et al. with the teachings of Watanabe et al. so as to treat multiple sclerosis with 3-methyl-1-phenyl-2-pyrazolin-5-one.

Bourrie et al. discloses that the drug SR 57746A significantly reduces the progression of experimental autoimmune encephalomyelitis (EAE) in an animal model of multiple sclerosis. Bourrie et al. demonstrates that infiltration of inflammatory cells in the lumbar part of the spinal cord is impaired in EAE rats treated with SR 57746A (see Bourrie et al. Figure 2 and Figure 3). Bourrie et al. suggests that the therapeutic effects of SR 57746A are mediated through its ability to inhibit cellular infiltration into the central nervous system. Therefore,

Bourrie et al. concludes that SR 57746A may be a new therapeutic compound for the treatment of multiple sclerosis.

Watanabe et al. discloses the effects of 3-methyl-1-phenyl-2-pyrazolin-5-one (edaravone) in an animal model of cerebral ischemia. Watanabe et al. does not disclose or suggest the use of edaravone to treat multiple sclerosis. Thus, one of ordinary skill in the art would not have been led by the disclosure of Watanabe et al. to use edaravone in the EAE animal model of Bourrie et al. or to use edaravone to treat multiple sclerosis.

In any event, however, even if one of ordinary skill in the art were to consider the combined disclosures of Bourrie et al. and Watanabe et al., one of ordinary skill in the art would have been led to use edaravone in an EAE animal model of the type disclosed in Bourrie et al. and would have discovered that edaravone does not inhibit lymphocytic infiltration in the lumbar part of the spinal cord (see accompanying Rule 132 Declaration of Kenji Chiba). Thus, by using the edaravone of Watanabe et al. in accordance with the alleged teaching of Bourrie et al., one of ordinary skill in the art would not have considered edaravone a good candidate for the treatment of multiple sclerosis and would have been led *away* from the present inventive method of treating multiple sclerosis.

As a result, it would not have been obvious to one of ordinary skill in the art to use edaravone to treat multiple sclerosis based on the combined teachings of Bourrie et al. and Watanabe et al.

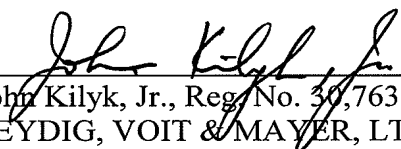
New claims 29-40 are directed to the treatment of meningitis, cerebritis, or brain abscess. Bourrie et al. and Watanabe et al. do not disclose such treatments. Accordingly, the new claims define subject matter that is unobvious in view of Bourrie et al. and/or Watanabe et al.

In view of the foregoing, Applicants submit that the invention, as recited in the pending claims, is not obvious. Accordingly, the rejection under Section 103 should be withdrawn.

Conclusion

Applicants respectfully submit that the patent application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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